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December 20, 2004

**VIA TELEFAX – (253) 798-7214**

Honorable Stephanie A. Arend  
Pierce County Superior Court  
County-City Building #532  
930 Tacoma Avenue S  
Tacoma, WA 98402

Re: *Washington State Republican Party, et al. v. King County  
Division Of Records, Elections And Licensing Services, et al.;*  
Pierce County Superior Court cause no. 04-2-14599-1

Dear Honorable Judge Arend:

I came in to the office this morning to discover the pleadings petitioners emailed to my office at approximately 8:26 p.m. last night, which demand that this Court rule on matters other than the TRO bond amount at the hearing this Court set for 9:00 a.m. to determine the TRO bond amount. For example, those pleadings demand entry of an Amended TRO Order that sets a hearing date in December (counsel's prior email had specifically stated a "January 31" date instead), and demands a Court Order granting expedited 48-hour notice depositions for that December hearing.

Since my client (the Secretary of State) is not demanding a TRO bond, I had not planned to attend this morning's hearing to determine the TRO bond amount. (Indeed, that hearing seems entirely unnecessary since petitioners have argued that King County is the only one able to demand a bond in this case, and King County's attorney notified petitioners' counsel yesterday that King County was not requesting any bond.)

On the short notice petitioners supplied, there literally is not time to draft, prepare, and deliver formal responsive pleadings. I am therefore quickly typing and telefaxing this letter, with a pdf copy going to counsel for each of the parties, to objection to petitioners' demand that this morning's hearing on the amount of the TRO bond rule on issues other than the amount of the TRO bond. Matters such as expedited discovery orders were not part of what this Court set this morning's hearing to address, and threaten to only

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further delay the prompt closure of the ongoing recount process in our State. It is physically impossible, on the short notice petitioners provided, for me to be at this morning's hearing to address such expanded matters not set for hearing this morning. That short notice has not even allowed me time to discuss petitioners' new demands with my client. And launching an expedition of expedited discovery and depositions is entirely unwarranted in light of this Court's own acknowledgment that the Supreme Court would be deciding the propriety of the TRO, the Democrats in fact filed an appeal of the TRO Order petitioners now want to Amend, and the reports are that Chief Justice Alexander has stated that the Supreme Court will be resolving this matter this week.

In short, the hearing this Court set for this morning on the amount of the TRO bond should be limited to the amount of the TRO bond. If petitioners want an Amended TRO Order instead or a Court Order for expedited depositions or discover, petitioners should follow the Court rules and serve their pleadings properly instead of trying to jam them through this Court.

If this Court is inclined to allow petitioners' latest demands to be resolved at this morning's hearing, the undersigned respectfully requests that he be allowed to participate by telephone (direct dial = 206-447-8934).

Sincerely,

Thomas F. Ahearne  
Counsel for Intervenor Washington Secretary of State

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cc: counsel for the parties to this suit